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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.578 of 2018

and

C.M.P. (MD) .No.6674 of 2018

The Managing Director,
Tamil Nadu State Transport Corporation
Sub Division - II,
Periyamilaguparai,
Tiruchirapalli.

... Appellant/ Respondent

Vs.

Thamayanthi

... Respondent/Claimant/Petitioner

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the award, dated 03.07.2014, made in M.C.O.P.No.234 of 2013 on the file of Motor Accident Claims Tribunal / Special District Court, Thanjavur.

For appellant

: Mr.D.Sivaraman

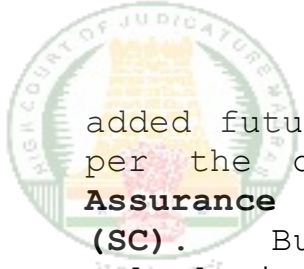
JUDGMENT

Heard the learned counsel appearing for the appellant / Transport Corporation.

2. It is a case of injury. The manner of the accident is not in dispute. The Tribunal has awarded a sum of Rs.20,71,000/- as compensation. This appeal has been filed by the appellant / Transport Corporation questioning the quantum of compensation awarded by the Tribunal.

3. The learned counsel appearing for the appellant / Transport Corporation would submit that the Tribunal has awarded a sum of Rs.5 lakhs towards medical expenses without any medical bills and another sum of Rs.5 lakhs towards pain and sufferings, which are on the higher side. Thus, he requested this Court to reduce the award passed under the said heads.

4. The date of the accident is on 05.01.2013. The age of the injured was 45 years at the time of the accident. Due to the accident, the injured lost her both legs. The Doctor has assessed 100% disability. By fixing Rs.6,000/- as notional income of the injured and applying the multiplier method, the Tribunal has awarded a sum of Rs.10,08,000/- towards loss of income. As the claimant has sustained 100% disability, the Tribunal could have



added future prospects in the monthly income of the deceased, as per the decision of the Hon'ble Supreme Court in **New India Assurance Company Limited Vs. Charlie** reported in **2005 ACJ 1131 (SC)**. But, the Tribunal has failed to add the same while calculating the loss of income. As the claimant has not filed appeal, this Court is not inclined to enhance the compensation by adding the future prospects in the notional monthly income of the injured.

5. As far as the medical expenses is concerned, the Tribunal has awarded a sum of Rs.5 lakhs. It is seen that the injured has not produced any medical bills. However, from the evidence of PW2 and the disability certificate - Ex.P10, it is apparent that both the legs of the injured were amputated and she underwent surgery in both the legs, for which she would have spent a huge sum. For having prosthetics legs in future, she will have to spent a huge sum. Considering the said facts and without awarding any sum towards future medical expenses, the Tribunal has awarded the said sum of Rs.5 lakhs in lump sum towards medical expenses. Hence, this Court is not inclined to interfere with the same.

6. So far as the award of Rs.5 lakhs passed by the Tribunal under the head of pain and sufferings is concerned, in this case, the claimant has lost both the legs and sustained 100% disability. Now, she totally depends upon the others for each and every need of her. The pain and sufferings undergone by the claimant cannot be compensated in terms of money. In view of the above, this Court is of the view that the award passed by the Tribunal under the head of pain and sufferings cannot be stated as excessive. It is brought to the notice of this Court that the entire award amount has already been deposited and the claimant has also withdrawn the same.

7. In view of the above, this Civil Miscellaneous Appeal is dismissed at the stage of admission itself. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Special District Judge,
Motor Accident Claims Tribunal,



2. The Record Keeper, (2 copies)
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.D.Sivaraman, Advocate Sr.No.74863

GCG

VB/KAK/SAR1/29.08.2018/3P/5C

Judgment in
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